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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,920	07/31/2001	Satoshi Kondo	60188-520	5216

20277 7590 04/03/2006

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600 13TH STREET, N.W.
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EXAMINER

FLETCHER, JAMES A

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/830,920

Applicant(s)

KONDO, SATOSHI

Examiner

James A. Fletcher

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 3-4, and 7-9.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: In re page 7, Applicant's Representative states: "Magee does not, after selecting an ES based on a remapped PID, perform a bit rate conversion on the selected ES, as recited in claim 1."

The Examiner respectfully disagrees for the reasons cited in the previous office action.

In re page 8, Applicant's Representative states: "Magee is silent as to reducing the bit rate of such a selected data stream.

The Examiner notes that a reduction in bit rate is not claimed by the Applicant, simply a step of converting the bit rate.

Further in re page 8, Applicant's Representative states: "the cited description refers to operations performed by a video preprocessor module 17, which is for pre-processing of video performed prior to the video signal being encoded."

While the Examiner does not dispute this statement, he respectfully notes that the module's operations meet those of claim 1.

In re pages 8 and 9, Applicant's Representative states: "Anticipation under 35 U.S.C. § 102 requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference, Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218USPQ 781 (Fed. Cir. 1983). As such, the Examiner's assertion that bit rate conversion is anticipated by Magee is improper."

The Examiner respectfully disagrees. Every limitation of claim 1 is expressly described in the single prior art reference, as stated in the previous office action.

In re page 9, Applicant's Representative states: "nowhere in Magee, it is disclosed how an updated PCR is used to synchronize two different TS packet strings by matching the updated PCR against some other time measure, as recited in claim 3.

The Examiner respectfully notes that synchronization of two different TS packet strings is not recited in claim 3.

In re page 10, Applicant's Representative states: "Magee does not have any motivation to suggest a bit rate conversion."


The Examiner again respectfully disagrees. Magee explicitly discloses conversion of sampling rates, understood by those of skill in the art to have a major effect on bit rates, as analyzed and discussed in the previous office action.

Further in re page 10, Applicant's Representative states: "Magee fails to disclose or suggest that the PCR itself is delayed, as required by the claim language 'delaying reference time ... to produce delayed reference time.'"

The Examiner again respectfully disagrees. Magee explicitly discloses determining the delay of the PCR while it is waiting to enter the DLM, as analyzed and discussed in the previous office action.

Further in re page 10, Applicant's Representative states: "there is no motivation for Magee to suggest to modify the PCR itself for re-synchronization. Without such required motivation, a prima facie case of obviousness can not be established with respect to claims 4 and 9."

The Examiner respectfully notes that Magee does not require any motivation to modify the PCR for re-synchronization, because Magee discloses that modification of the PCR, both by measuring the dwell time and by converting the bit rate as required. Obviousness is not an issue with this limitation..


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